

## REMARKS

### **Remarks About the November 1, 2004 Office Action:**

Applicants received an Office Action dated November 1, 2004, wherein the Examiner stated that the prior response filed July 27, 2004 was non-responsive, particularly for failing to indicate that claims 43 and 46 were “withdrawn.” Applicants have changed the parenthetical of those claims as suggested by the Examiner.

In addition, the Examiner stated that claims 1-2, 4-5, 8-11, 34-35 and 47-48 did not read on FIGS. 5-8, namely because the location of the connections were not located outboard of the side edges. Applicants first note that claim 1, for example, merely recited that a recited location was positioned outboard of the side edges, not that *all* locations were so located. Indeed, claim 1 recited that the entirety of the side margin positioned between *the location* and the free edge was unattached to the bodyside surface of the body panel, thereby referring to location 76, not location 78. Nonetheless, Applicants have further clarified and broadened the language of claim 1 by reciting that the retention portion does not form any portion of the side margin (see FIGS. 5 and 7; Specification at 18, lines 20-23). Applicants have further amended Figure 5 to conform to Figure 7 and the Specification at 18, lines 20-23. As such, claims 1-2, 4-5, 8-11, 34-35 and 47-48 should not be withdrawn.

Applicants have modified new claims 47 and 48 as compared with the earlier reply to clarify the “non-orthogonal relationship” between the side margin and body panel. In particular, Applicants have now recited in claim 47, for example, that the side margin forms an oblique angle relative to a plane defined by said body panel at said location. Support for these amendments is found throughout the specification, including FIG. 7 and at page 20, lines 3-10.

### **Remarks About the Prior Art Rejections:**

In an Office Action mailed April 22, 2004, the Examiner objected to claims 9, 21 and 31, rejected all pending claims as being anticipated by U.S. Patent No. 6,514,233 to Glaug, rejected claims 1, 4, 5, 8-11, 34 and 35 as being anticipated by U.K. Patent Application GB 2 253 131 A to Kao, and rejected claims 2, 14, 16, 17, 20-22, 24-27, 30-32 40, 41, 44 and 45 as being made obvious over Kao in view of U.S. Patent No. 5,745,922 to Rajala et al. The Examiner also rejected the claims under the obviousness-type double patenting doctrine relative to U.S. Application No. 10/053,251. Because Glaug, Kao and Rajala do not disclose or suggest all of

the recitations of the pending claims, alone or in combination, the Examiner's rejections should be withdrawn. Applicants further note that they have amended claims 9, 21 and 31 to overcome the Examiner's objections.

**35 USC 102 Rejections Over Glaug:**

Each of independent claims 1, 14 and 24 recite that the terminal edges of the absorbent composite are longitudinally spaced from the terminal waist edge of the body panel(s), or the substrates making up the body panels. In contrast, as shown in FIGS. 1, 4 and 5 of Glaug, the terminal edge of the absorbent composite 50 is parallel or contiguous with the terminal edges of the body panels 22, 24. The claimed inventions provide significant advantages over Glaug including material savings related to the shorter absorbent composite, and the ability of the body panels to retain their stretching properties through the waist band region independent of the absorbent composite.

There also is no suggestion to modify Glaug to allow for the terminal edges of the absorbent composite to be longitudinally spaced from the terminal waist edge of the body panels. In particular, Glaug is manufactured with the absorbent composite running continuously in the machine direction such that the front and rear body panels can be secured thereto and then severed to form the garment (see FIG. 4; Col. 10, lines 64 to Col. 11, line 13). There is no teaching in Glaug for severing the absorbent composite web, spacing the severed members and then applying the body panels such that the terminal edges of the absorbent composite are spaced from the terminal edges of the body panels.

For at least these reasons, Glaug not only fails to disclose all of the recitation of the noted claims, but further teaches away from modifying Glaug to arrive at the claimed invention. Accordingly, the pending claims should be allowed over Glaug and notice to that effect is earnestly solicited.

**35 USC 102 Rejections Over Kao:**

Independent claim 1 now recites that "said retention portion does not form any portion of said side margin." Support for this amendment is found for example and without limitation at page 18, lines 20-24 and Figure 7.

In contrast, Kao discloses that at least some (Fig. 2), and perhaps all (Figs. 3 and 4), of the locations A are positioned *inboard* of the side edges of the absorbent material 17 so as to directly underlie the absorbent material. In this way, at least a portion of the side margins of Kao are made up in part of the absorbent material, which can adversely affect the flexibility of the side margin.

For at least these reasons, Kao does not disclose or suggest all of the limitations of claim 1 and the Examiner's rejection should be withdrawn.

### **35 USC 103 Rejections Over Kao and Rajala:**

Independent claims 14 and 24 each recite that the first and second body panels each have *at least two substrates*, and further that those substrates *each* have terminal waist and crotch edges. Of course, as acknowledged by the Examiner, the claim language does not preclude yet another substrate or layer from being secured to the first and second body panels and extending over the entire garment (Office Action at 5, para. 10).

As acknowledged by the Examiner, Kao discloses a monolithically formed panel of inner and outer layers. In addition, the Examiner further acknowledges that Rajala discloses an *inner layer* formed of two panels. Rajala, however, does not disclose an *inner and outer* layer each formed of two panels. Rather, the outer panel 12 is *monolithic* so as to provide a "continuous" layer for applying the elastics and subsequent inner panel (whether monolithic or two-piece) (Col. 13, lines 26-36; Col. 15, lines 35-58; FIGS. 8-12). Accordingly, Rajala and Kao do not disclose all of the recitations of claims 14 and 24 and the Examiner's rejections should be withdrawn for at least this reason.

In addition, there is no suggest to make either of the panels of Kao and Rajala with at least two substrates forming each of a front and rear body panel. In particular, if both the layers of Kao were terminated along a crotch edge to form separate front and rear body panels, then the body panels would not remain positioned relative to each other once the absorbent member 17 was removed. Since Kao discloses the importance of providing a chassis allowing for the ability to replace the absorbent member 17 (page 10), Kao teaches against a modification making the garment unsatisfactory for its intended purpose (MPEP 2143.02). Accordingly, claims 14 and 24, and the claims depending therefrom, should be passed to allowance on the next office action.

**Statement About Common Ownership and Obviousness-Type Double Patenting Rejection:**

The present application and Application S/N 10/053,251 were, at the time that the invention of the present application and/or the invention of Application S/N 10/053,251 were made, commonly owned by Kimberly-Clark Worldwide, Inc.

Applicants have enclosed herewith a terminal disclaimer, accompanied by the requisite fee, to overcome the obviousness-type double patenting rejection. Submission of the terminal disclaimer should not be construed as an admission that the pending claims are in fact obvious over the claims of the '251 application. Rather, Applicants have submitted the terminal disclaimer merely to expedite the prosecution of the present application.

**New Claims:**

New claims 47 and 48 further define the invention relative to the orientation of the side margin. Support for these amendments is found through the application, including for example and without limitation Figures 6 and 7. Since Applicants have cancelled two claims, it is not believed that any additional claims fees are due for the two new claims.

**CONCLUSION:**

If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully submitted,

By:   
Andrew D. Stover  
Registration No. 38,629  
Attorney for Applicants

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BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200